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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,089	07/30/2003	Paige Fortner	FORP121050	2026

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EXAMINER

HALE, GLORIA M

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/631,089

Applicant(s)

FORTNER, PAIGE

Examiner

Gloria Hale

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 27-38 is/are pending in the application.
- 4a) Of the above claim(s) 15-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 27-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5-24-06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14 and 27-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Kenyon(US 5,569,345).

In regard to claims 1-14 and 27-38 Kenyon discloses a garment pad 10 that is dome shaped in a two-dimensional manner wherein the dome is the protruding area of the pad and wherein pad would provide shapeliness by being adhered about the breast to provide uplifting support. The fleece fabric is a pad layer and an adhesive 11 on a bonding substrate liner which is heat sensitive adheres the pad to a garment. The adhesive becomes a liquid upon heating and is then cured when it cools. The web layer 11 is between the garment and the pad when adhered to the garment. The indentations about the edge of the pad as seen in figure 1 perform as relief gaps, relief cuts or apertures as broadly claimed. It is noted that any iron on patch in such a configuration reads on the claimed invention. Also it is well known to glue with common household glue which is totally liquid and then cures with air to attach patches to garments as desired. The pad can be pulled off by hand and temporary or can remain permanently thereon. The fusible fabric is a double sided tape since the adhesive is on both sides. The material extends and curves in an arcuate shape following the outline in figure 1.

Fusible bonding material is obtainable separately and can be used to adhere any fabric pad as desired. The pad of Kenyon is placeable on any garment as a bra ad or shoulder pad as desired. Nothing precludes the Kenyon pad from being used as such. (See Kenyon, figure 1 and col. 2.).

Claims 1,4-11,13,14,27,28 and 30-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Sneider (US 4,674,510).

Sneider discloses a dome shaped pad that adhesively (18) attaches to the wearer's garment and which provides shapeliness when attached thereto. (See Sneider, figures 1-3). (col.4,line 24 – 59; col. 5,lines 34-68).

Response to Arguments

Applicant's arguments filed 5-24-06 have been fully considered but they are not persuasive. Applicant is arguing more than what has been claimed. The dome shape has not been claimed as a three dimensional dome shape. Additionally, such dome shapes are present in the breast prosthetic areas. The Sneider pad is dome shaped and is attached with adhesive means to the wearer's garment interior. The Sneider pad would inherently provide shapeliness to a wearer's breasts. The language added to claim 1 is an intended use statement and does not positively recite the structure of the invention to add shapeliness to the wearer's breasts any more than what is seen by Sneider.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

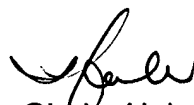
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 571-272-4984. The examiner can normally be reached on Tues.-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gloria Hale
Primary Examiner
Art Unit 3765
